

BRITISH COLUMBIA
LABOUR RELATIONS BOARD

February 2, 2009

To Interested Parties

Dear Sirs/Mesdames:

Re: British Columbia Public School Employers' Association -and-
British Columbia Teachers' Federation
(Part 5 - Case No. 58919/09)

Enclosed is a copy of the Board's decision (BCLRB No. B25/2009) rendered in connection with the above-noted matter.

Yours truly,

LABOUR RELATIONS BOARD



Jayne Ottens, Senior Executive Assistant to
Lisa Southern, Vice-Chair and Registrar

LS/jo

Interested Parties:

British Columbia Public School Employers' Association
400 - 1333 West Broadway
Vancouver BC
V6H 4C1
ATTENTION: Jacquie Griffiths

Harris & Company
Barristers & Solicitors
Suite 1400, Bentall 5
550 Burrard Street
Vancouver BC V6C 2B5
ATTENTION: Chris Leenheer

British Columbia Teachers' Federation
100 - 550 West 6th Avenue
Vancouver BC
V5Z 4P2
ATTENTION: Irene Lanzinger/Diane MacDonald

Victory Square Law Office
Lawyers
400 - 198 West Hastings Street
Vancouver, BC
V6B 1H2
ATTENTION: John Hodgins/Steven Rogers

BCLRB No. B25/2009

BRITISH COLUMBIA LABOUR RELATIONS BOARD

**BRITISH COLUMBIA PUBLIC SCHOOL EMPLOYERS'
ASSOCIATION**

(the "Employer")

-and-

BRITISH COLUMBIA TEACHERS' FEDERATION

(the "Union")

PANEL: Lisa Southern, Vice-Chair and Registrar

APPEARANCES: Chris Leenheer, for the Employer
John Hodgins and Steven Rogers, for the
Union

CASE NO.: 58919

DATE OF HEARING: February 2, 2009

DATE OF DECISION: February 2, 2009

DECISION OF THE BOARD

I. NATURE OF APPLICATION

1 This decision arises out of the Employer's application in relation to an alleged
declaration or authorization of a strike contrary to Section 57(1) of the *Labour Relations
Code* (the "Code"). The Employer seeks a number of orders, both against BCTF and its
members. The Employer says BCTF's direction to its members not to administer a
province-wide test known as the Foundation Skills Assessment ("FSA"), constitutes an
unlawful declaration and authorization of a strike. It seeks an order that BCTF cancel
this direction.

2 An expeditious answer to the Employer's application is necessary and,
accordingly, I am providing a bottom-line decision at this time.

II. DECISION

3 I find that administering/supervising the FSA tests is *prima facie* work which
teachers are obligated to perform. Consequently, BCTF is ordered, on an interim basis,
to do the following:

1. cancel its direction to members not to administer/supervise
FSA tests and to take reasonable steps to communicate
that cancellation to its members as soon as possible and no
later than 4:00 pm on February 4, 2009; and
2. cease and desist from authorizing or directing its members
not to administer/supervise FSA tests.

4 I have deliberately used the words "administer/supervise" to reflect a continuation
of the *status quo* that existed prior to BCTF's direction. Nothing in this order should be
construed as requiring either party to perform any different work than it has over the last
8 years regarding the FSA. This order is intended to revert the parties to 'business as
usual' as it existed prior to BCTF's direction.

5 This order shall remain in effect until such time as an arbitrator's determination is
found by the Board to affect this order, or until such time as the Employer withdraws its
Part 5 complaint, or the parties settle this dispute, or the Board otherwise orders.

6 At the Employer's request, pursuant to Section 135 of the Code this Order will be filed in the Vancouver Registry of the Supreme Court of British Columbia.

7 Finally, with respect to this year's FSA, in the event that another dispute arises regarding the administration/supervision of the FSA, an expedited process will be engaged to address the dispute. A hearing will be commenced by conference call with the parties within twelve hours of being requested to do so by any party or as soon thereafter as possible.

LABOUR RELATIONS BOARD



LISA SOUTHERN
VICE-CHAIR AND REGISTRAR